



February 20, 2004

ENGROSSED SENATE BILL No. 316

DIGEST OF SB 316 (Updated February 18, 2004 1:31 pm - DI 96)

Citations Affected: IC 36-8.

Synopsis: Employment absence for volunteer firefighters. Prohibits a political subdivision from disciplining an employee who is a volunteer firefighter for being absent from employment when the employee is responding to a fire or emergency call. Specifies that this absence is not a violation of the ghost employment statute, and that the supervisor of the employee who has authorized the absence has not committed ghost employment. Allows the employee to initiate a civil action against a political subdivision employer who disciplines the employee for this reason. Authorizes a political subdivision employer to request proof that the employee was engaged in fire or emergency activity when absent.

Effective: July 1, 2004.

Lewis, Young R Michael
(HOUSE SPONSORS — ROBERTSON, LYTLE, RUPPEL)

January 12, 2004, read first time and referred to Committee on Pensions and Labor.
January 29, 2004, amended, reported favorably — Do Pass.
February 2, 2004, read second time, ordered engrossed. Engrossed.
February 4, 2004, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 6, 2004, read first time and referred to Committee on Labor and Employment.
February 19, 2004, amended, reported — Do Pass.

C
o
p
y

ES 316—LS 7065/DI 96+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 316

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-12-10.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2004]: **Sec. 10.5. (a) This section applies to an**
4 **employee of a political subdivision who:**

5 (1) **is a volunteer firefighter; and**

6 (2) **has notified the employee's employer that the employee is**
7 **a volunteer firefighter.**

8 (b) **A political subdivision employer may not discipline an**
9 **employee:**

10 (1) **for being absent from employment by reason of**
11 **responding to a fire or an emergency call that was received**
12 **before the time that the employee was to report to**
13 **employment; or**

14 (2) **for leaving the employee's duty station to respond to a fire**
15 **or an emergency call if the employee has secured**
16 **authorization from the employee's supervisor to leave the**
17 **duty station in response to a fire or an emergency call**

ES 316—LS 7065/DI 96+



C
o
p
y

received after the employee has reported to work.

(c) A political subdivision employer may require an employee who has been absent from employment as set forth in subsection (b)(1) or (b)(2) to present a written statement from the fire chief or other officer in charge of the volunteer fire department at the time of the absence indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence.

(d) A person who:

- (1) is employed by a political subdivision;
 - (2) is absent from employment in order to engage in emergency firefighting or emergency activity under this section; and
 - (3) will receive or has received wages or salary from the political subdivision for the time absent from employment;
- is not considered to have committed a violation of IC 35-44-2-4(d).

(e) A public servant who permits or authorizes an employee of the political subdivision under the supervision of the public servant to be absent from employment or to leave the employee's duty station in order to perform emergency firefighting or emergency activity under this section is not considered to have committed a violation of IC 35-44-2-4(b).

(f) An employee who is disciplined by the employer in violation of subsection (b) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

- (1) Payment of back wages.
- (2) Reinstatement to the employee's former position.
- (3) Fringe benefits wrongly denied or withdrawn.
- (4) Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

**C
O
P
Y**



SENATE MOTION

Madam President: I move that Senator Young R Michael be added
as coauthor of Senate Bill 316.

LEWIS

**C
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 316, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 3, delete "(a) This section does not".

Page 1, delete line 4.

Page 1, line 5, delete "(b)" and insert "**(a)**".

Page 1, line 5, after "employee" insert "**of a political subdivision**".

Page 1, run in lines 3 through 5.

Page 1, line 9, delete "(c) An" and insert "**(b) A political subdivision**".

Page 2, line 2, delete "(d) An" and insert "**(c) A political subdivision**".

Page 2, line 3, delete "(c)(1) or (c)(2)" and insert "**(b)(1) or (b)(2)**".

Page 2, line 8, delete "(e) An" and insert "**(d) A political subdivision**".

Page 2, line 13, delete "(c)" and insert "**(b)**".

and when so amended that said bill do pass.

(Reference is to SB 316 as introduced.)

HARRISON, Chairperson

Committee Vote: Yeas 9, Nays 0.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred Senate Bill 316, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 11, after "or" insert "**an**".

Page 2, delete lines 9 through 12, begin a new paragraph and insert:

"(d) A person who:

(1) is employed by a political subdivision;

(2) is absent from employment in order to engage in emergency firefighting or emergency activity under this section; and

(3) will receive or has received wages or salary from the political subdivision for the time absent from employment; is not considered to have committed a violation of IC 35-44-2-4(d).

(e) A public servant who permits or authorizes an employee of the political subdivision under the supervision of the public servant to be absent from employment or to leave the employee's duty station in order to perform emergency firefighting or emergency activity under this section is not considered to have committed a violation of IC 35-44-2-4(b)."

and when so amended that said bill do pass.

(Reference is to SB 316 as printed January 30, 2004.)

LIGGETT, Chair

Committee Vote: yeas 12, nays 0.

C
o
p
y

